



UNITED STATES DISTRICT COURT

for the

Southern District of Mississippi

United States of America

)

v.

)

Phung Nguyen

)

)

)

Case No. 1:13mj49JMR

*Defendant(s)***CRIMINAL COMPLAINT**

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of March 7, 2013 in the county of Harrison in the
Southern District of MS, Southern Division, the defendant(s) violated:

*Code Section**Offense Description*

21 U.S.C. § 846

Conspiracy and Attempt to Possess with Intent to Distribute a Controlled Substance, to wit, MDMA, commonly known as Ecstasy.

This criminal complaint is based on these facts:

See attached affidavit.

Continued on the attached sheet.

Complainant's signature

Brent Arthur, DEA Special Agent

Printed name and title

Sworn to before me and signed in my presence.

Date: March 8, 2013

Judge's signature

City and state: Gulfport, MS

John M. Roper, Chief U.S. Magistrate Judge

Printed name and title

AFFIDAVIT

I, Brent Arthur, being first duly sworn, state as follows:

Introduction

I am a Special Agent (SA) with the United States Department of Justice, Drug Enforcement Administration (DEA). I have been employed with the DEA since January 2010. I am currently assigned to the Gulfport Resident Office located in Gulfport, MS. During the course of my employment, I have participated in numerous investigations of illegal narcotics trafficking and violations of Title 21 United States Code.

Probable Cause Factual Basis

On March 5th and 6th, 2013, United States Postal Inspector (PI) Robert Gechijian intercepted 4 packages that were being shipped from the People's Republic of China to Peter Huang at _____, D'Iberville, Mississippi. On March 7, 2013, Homeland Security Investigations Special Agent Benjamin Taylor conducted an extended border inspection of the packages at the D'Iberville Post Office. During the inspection, SA Taylor located a clear plastic bag containing a white powdery substance inside the package. SA Taylor and DEA Special Agent Brent Arthur conducted a presumptive test on the contents, which was positive for methamphetamine or MDMA Ecstasy. PI Gechijian then delivered the packages to the residence, where they were accepted by Summer Oechsner and Xa Nguyen. PI Gechijian told both individuals that he had some packages to deliver for Peter Huang multiple times and both Oechsner and Xa Nguyen said that they were expecting the packages and accepted all four packages and took them inside the residence. Agents then approached the residence and secured it to prevent the destruction of evidence. Agents then obtained a state search warrant for the residence. During the search subsequent to the signing of the search warrant, agents located all four packages in a United States Postal Service container on the kitchen table. Xa Nguyen and Oechsner were advised of their Miranda Warnings and explained that they were just accepting the packages and did not know the contents of the packages. They explained that once they received the packages, an Asian male, subsequently identified as Phung NGUYEN, was to pick up the packages from the residence. They also explained that approximately one month prior there were four similar packages that were delivered to the residence and subsequently picked up by Phung NGUYEN, with the packages being delivered on two separate days. Oechsner also explained that Phung NGUYEN had deposited \$500 into her bank account after the delivery of the previous packages. Oechsner told agents that Phung NGUYEN was driving a black van and he was from Texas. She also explained that he was riding around the area waiting on the packages to be delivered. On March 5, 2013, agents observed a black Mazda van parked in the driveway bearing Texas registration _____. Agents were able to determine that the vehicle belonged to Hertz Rent-A-Car and was rented by Phung NGUYEN. Agents were able to locate Phung NGUYEN, who was in the black Mazda van, near the residence. Phung NGUYEN was advised of his Miranda Warnings and told agents that he was going to pick up the packages. Phung NGUYEN told agents that he drove from Houston, Texas

in order to pick up the packages and deliver them to "Lee", an unidentified male, in Gulfport, Mississippi and then return to Houston. Phung NGUYEN was unable to provide any further information regarding "Lee". Phung NGUYEN also explained to agents that the packages contained "Chinese medicine" and it was intended for human consumption.

The gross weight of the packages was approximately 2 kilograms.

CONCLUSION

Based upon my experience as a DEA Special Agent and the facts listed above involving Phung NGUYEN, it is my opinion that there is probable cause to believe that Phung NGUYEN committed violations of Title 21 U.S.C. § 846, conspiracy to possess with intent to distribute and attempt to possess with intent to distribute MDMA, commonly known as ecstasy, a controlled substance, in the Southern District of Mississippi.


Brent Arthur
Special Agent
Drug Enforcement Administration

Sworn and subscribed to me this 8th day of March, 2013.


CHIEF UNITED STATES MAGISTRATE JUDGE